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Subject:— Opinions under the City of Bombay Municipal Act, 1888.

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S U B J E C T S.

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Whether it is competent for the Bombay Municipality to vary the amount of instalment payable in to the sinking fund annually - 1 - 4.

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The first question for consideration of the R.L.A. is whether it is competent for the Bombay Municipality to vary the amount of instalment payable into the Sinking fund annually.

2. Section 109(f) of the City of Bombay Municipality Act, 1888, inter alia provides that the Corporation shall in every year set apart as a sinking fund and accumulate in the way of compound interest by investing the same in the purchase of public securities such sum as will, with accumulations in the way of compound interest, be sufficient, after payment of all expenses, to pay off the moneys so be raised within the period sanctioned or within such further period as may be approved by the Provincial Government. The Local Authorities Loans Act, 1914, supplements the provisions contained in Chapter VI of the City of Bombay Municipal Act in respect of the borrowing powers of the Municipality. Sub-rule (1) of rule 18 of the Local Authorities Loans Rules, 1915, framed by Bombay Government under section 4(1) of the Local Authorities Loans Act provides that if the loan is not repayable by annuities or annual drawings, the local authority shall establish a sinking fund and pay out of its income yearly or half yearly sums into such fund a sum which accumulating at such rate of compound interest as the Provincial Government may fix, will be sufficient to secure the

liquidation of the loan within the term fixed for its repayment. Sub.rule (3) states that the local authority shall submit the accounts ofits sinking fund annually to the Accountant General, Bombay, and shall at once make good from its income any amount by which he may certify that the fund is deficient, unless the Provincial Government sanctions a gradual readjustment. Reading these provisions together it will be clear that Government has to fix the rate of compound interest and it is for the Municipality to determine what yearly or half-yearly sum would be sufficient to secure the liquidation of the loan within the sanctioned period and to invest it in the sinking fund. It would therefore be competent for the Bombay Municipality to vary the amount of instalment payable into the sinking fund if the amount thus varied is found to be sufficient for the purpose. It will however have to make good from its income any sum by which the Accountant General certifies that the fund is deficient as a result of such variation.

3. The second question for consideration is whether it is competent for the Bombay Municipality to withdraw from its sinking fund any amount which appears to be in excess of the amount required according to the original scheme of liquidation. Attention is invited to the R.L.A's opinion No. 3750 dated 26th April 1938, where the R.L.A. has opined that the sum in the sinking fund in excess of the

required amount forms part of the sinking fund and cannot be appropriated by the Corporation to a purpose other than those mentioned in section 103 of the City of Bombay Municipal Act, 1888. The reply to the question is therefore in the negative.

Sd:——————

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Remembrancer of Legal Affairs

Sd/- .....

28-7-41.

U.R. to F.D., No. 6704, dated the 30th July 1941.

GJT. 27.6.4